

Message Text

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C O N F I D E N T I A L STATE 201139

E.O. 11652:GDS

TAGS: MARR, RP

SUBJECT:PHILIPPINE BASE NEGOTIATIONS: DEFINITIONS:

AUTHORIZATION TO USE TERMS OF USE

REF: A) MANILA 11722

B) MANILA 11723

C) MANILA 12030 USDEL 200 DTG 120138Z AUG 76

1. THE FOLLOWING CABLE WAS PREPARED BEFORE RECEIPT OF
REF C. WE REALIZE THAT YOU HAVE ALREADY DEALT WITH MANY
OF OUR CONCERNS AND MUCH OF INFORMATION IS OUTDATED, BUT
WE ARE PROVIDING IT FOR YOUR BACKGROUND USE AS YOU REQUESTED.
WE AWAIT MORE DETAILED INFORMATION ON DEFINITIONS
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AS DISCUSSED REF C.

2. AFTER NEARLY TWO MONTHS OF AGONIZING OVER THE WORD "FACILITY" IN BOTH UPPER AND LOWER CASE FORMS, WE VIEW THE ACCEPTANCE OF THE DEFINED TERM "INSTALLATION" BY PHILS AS A THREAD WE WISH TO DRAW IN AN ATTEMPT TO LEAD US OUT OF THE FACILITIES QUAGMIRE. IF WE CAN GAIN ACCEPTANCE OF THE USE OF "INSTALLATIONS" IN KEY AREAS OF THE TEXT, WE BELIEVE IT MAY BE SATISFACTORY NOT RPT NOT TO DEFINE THE

WORD "FACILITY," BUT RATHER USE IT WITHOUT DEFINITION AND RELY ON MAPS TO MEET OUR REQUIREMENTS. OUR RATIONALE FOR VARIOUSLY UTILIZING "INSTALLATIONS" AND "FACILITIES" AT THIS TIME IS (A) TO PROVIDE FOR POSSIBILITY OF A DISTINCTION, WHICH PHILS APPARENTLY DESIRE, BETWEEN MAJOR INSTALLATIONS AND OTHER ACTIVITIES TO REDUCE VISIBILITY OF LATTER, AND (B) TO PROVIDE FOR NEGOTIATING FLEXIBILITY FOR WHAT WE ANTICIPATE WILL BE A TORTUOUS PROCESS. WE RECOGNIZE THAT THIS DISTINCTION WOULD REQUIRE CHANGES THROUGHOUT THE AGREEMENT AS E.G., IN THE CREATION OF A QUOTE INSTALLATION COMMANDER UNQUOTE IN LIEU OF A QUOTE FACILITY(IES) COMMANDER UNQUOTE.

3. AT THIS STAGE WE PREFER TO NEGOTIATE OVER INSTALLATIONS AND MAPS RATHER THAN A DEFINITION OF "FACILITIES" BECAUSE THE LATTER COURSE WOULD, UNLESS PHILS ACCEPT OUR DEFINITIONS IN TOTO, LEAD US INTO TWO INTRACTABLE AREAS. THE FIRST IS COMMAND AND CONTROL WHERE OUR SINE QUA NON IS CONTIGUOUS AREA MILITARY COMMAND AND CONTROL BY THE U.S., THE SECOND IS THE APPARENT PHIL PENCHANT FOR INCLUDING EQUIPMENT WITHIN MEANING OF FACILITY WHICH HAS WIDE RAMIFICATIONS WITH RESPECT TO TITLE AND CONTROL. SINCE PHILS NOW SEEM TO CONCEDE THAT TITLE IS AN ARTICLE XVII ISSUE WE SEE NO REASON TO QUARREL ABOUT TITLE IN ARTICLE I. THUS WE PROPOSE, FOR YOUR CONSIDERATION, DROPPING "FACILITIES" FROM THE DEFINITION ARTICLE AND UTILIZING DEFINITION OF INSTALLATION APPEARING IN REF B, ARTICLE I. NATURALLY, HOWEVER, OUR DESIRE TO USE WORD QUOTE INSTALLATION UNQUOTE DOES NOT AFFECT IN ANY WAY OUR REQUIREMENTS ON LAND AND WATER AREAS ISSUES WHICH WILL BE ADDRESSED IN SUBSEQUENT NEGOTIATIONS OVER MAPS.

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4. SHOULD DEFINITION OF QUOTE BASE UNQUOTE REOPEN, WE WOULD PREFER DELETION OF QUOTE UNDER THE JURISDICTION UNQUOTE TO AVOID LATENT PROBLEMS OVER CRIMINAL JURISDICTION.

5. TURNING THEN TO ARTICLE II (NEW TITLE IS ACCEPTABLE), WE WOULD SUBSTITUTE "INSTALLATIONS" FOR THE DISPUTED

"FACILITIES" AND ALSO PREFER TO PARRY THE "LAND AND WATERS" DISPUTE BY MOVING THAT ISSUE TO THE MAP DRAWING SESSION. WITH RESPECT TO DISAGREEMENT OVER DIPLOMATIC NOTE, WE PROPOSE THAT USE OF NEUTRAL TERM "THROUGH DIPLOMATIC CHANNELS" WOULD ALLOW BOTH SIDES TO MAINTAIN THEIR POSITIONS I.E., U.S. COULD SEND NOTE WITHOUT REQUESTING ANSWER AND PHILS COULD RESPOND OR NOT AT THEIR DISCRETION. TEXT WOULD BE AS FOLLOWS: QUOTE

SUBJECT TO THE TERMS OF THIS AGREEMENT, THE PHILIPPINES AUTHORIZES THE UNITED STATES TO USE FOR MILITARY PURPOSES INSTALLATIONS WITHIN A BASE AS SHOWN ON THE MAPS ATTACHED TO ANNEX A OF THIS AGREEMENT, AND THE BUILDINGS AND OTHER CONSTRUCTIONS LOCATED THEREON. AN INVENTORY LISTING SUCH BUILDINGS AND CONSTRUCTIONS WILL BE PROVIDED BY THE UNITED STATES TO THE PHILIPPINES THROUGH DIPLOMATIC CHANNELS UPON SIGNATURE OF THIS AGREEMENT. THIS INVENTORY LISTING WILL BE JOINTLY REVIEWED ON AN ANNUAL BASIS IN ORDER TO MAINTAIN ITS ACCURACY.

FACILITIES, NOT WITHIN INSTALLATIONS, WHICH THE PHILIPPINES AUTHORIZES THE UNITED STATES TO USE ARE SHOWN ON THE MAPS ATTACHED TO ANNEX B OF THIS AGREEMENT. UNQUOTE.

6. ANNEX A WOULD BE AS CONTAINED REF A SUBSTITUTING IN ANNEX A, "BOUNDARIES OF THE INSTALLATIONS" FOR "BOUNDARIES OF LANDS AND WATERS." NO CHANGE SUGGESTED FOR ANNEX B, BUT WOULD APPRECIATE CONFIRMATION THAT SEISMIC RESEARCH FACILITY IS, OR WILL BE, WITHIN PHIL MILITARY BASE AS TITLE SUGGESTS.

7. NEW SPANISH AGREEMENT COVERS QUOTE MINOR FACILITIES
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UNQUOTE IN AN ANNEX VICE IN AN EXCHANGE OF NOTES BUT WE ARE NOT UNALTERABLY OPPOSED TO PHIL PROPOSAL TO COVER LESSER FACILITIES IN SEPARATE EXCHANGE OF NOTES VICE ANNEX B. WE SOLICIT YOUR VIEWS IN THIS REGARD.

8. RE ARTICLE III US DRAFT, PROVISIONS AND YOUR COMMENTS ACCURATELY REFLECT OUR CONSIDERATIONS. WE WOULD, OF COURSE, INSIST UPON QUOTE INSTALLATIONS AND FACILITIES UNQUOTE THROUGHOUT ARTICLE III TO BE CONSISTENT WITH ARTICLES I & II.

9. WE DO NOT SEE ROOM FOR MOVEMENT AT THIS TIME ON OTHER AREAS OF DISAGREED LANGUAGE, AND ARE THUS CONCENTRATING OUR EFFORTS ON RESOLUTION OF FACILITIES PROBLEMS. KISSINGER

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